



February 23, 1999

## HOUSE BILL No. 1100

DIGEST OF HB 1100 (Updated February 17, 1999 10:49 am - DI 87)

**Citations Affected:** IC 7.1-3; IC 7.1-5.

**Synopsis:** Alcoholic beverage permit matters. Makes certain changes concerning permits and sales of alcoholic beverages by wholesalers. Eliminates the requirement of a \$500 surety bond for alcoholic beverage wholesalers, wine bottlers, and alcoholic beverage carriers. Provides that payments required under the alcoholic beverage laws may be made by a check drawn on a business bank account. Corrects a reference to the Indiana Administrative Code in order to cite the current rule on Sunday sales of alcoholic beverages by certain retailers. Provides that the alcoholic beverage commission (ABC) may not issue a beer retailer's permit to a person who, within ten years before the date of application, has been convicted of certain federal or state crimes. Provides that the holder of an alcoholic beverages club permit may keep a guest book listing members and their nonmember guests, except on designated guest days. Provides that the city of Mishawaka may

(Continued next page)

**Effective:** July 1, 1999.

### Dobis

January 6, 1999, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.  
February 22, 1999, amended, reported — Do Pass.

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Digest Continued

obtain a permit for the retail sale of alcoholic beverages at the city golf course.

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**HB 1100—LS 6045/DI 2+**



February 23, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1100

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 7.1-3-1-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A permit of any  
3 type issued by the commission, **except as provided in subsections (b)**  
4 **and (f) or** unless otherwise provided in this title, shall be in force for  
5 one (1) calendar year only, including the day upon which it is granted.  
6 At the end of the one (1) year period the permit shall be fully expired  
7 and null and void.  
8 (b) Notwithstanding subsection (a), in a county containing a  
9 consolidated city, a permit that is subject to section 5.5 or 5.6 of this  
10 chapter is effective for two (2) calendar years, including the day upon  
11 which the permit is granted. However, a local board may recommend  
12 to the commission that the permit be issued or renewed for only a one  
13 (1) year period. The commission may issue or renew a permit for the  
14 period recommended by the local board.  
15 (c) A permittee who is granted a two (2) year permit under

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subsection (b) **or subsection (f)** is liable for any annual fees assessed by the commission. The annual fee is due on the annual anniversary date upon which the permit was granted.

(d) If the commission grants a two (2) year permit, the commission may ask a local board to hold a hearing to reconsider the duration of a permittee's permit. A hearing held under this subsection is subject to section 5.5 or 5.6 of this chapter. A local board shall hold the hearing requested by the commission within thirty (30) days before the permittee's next annual anniversary date and forward a recommendation to the commission following the hearing.

(e) If a permittee is granted a permit for more than one (1) year, the commission may require the permittee to file annually with the commission the information required for an annual permit renewal.

**(f) Notwithstanding subsection (a), the following are effective for two (2) calendar years, including the day upon which the permit is granted:**

**(1) A beer wholesaler's permit issued under IC 7.1-3-3-1.**

**(2) A wine wholesaler's permit issued under IC 7.1-3-13-1.**

SECTION 2. IC 7.1-3-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) An applicant for a brewer's permit, a distiller's permit, or a liquor wholesaler's permit shall file with the commission a surety bond in the penal sum of ten thousand dollars (\$10,000).

(b) An applicant for a rectifier's permit shall file with the commission a surety bond in the penal sum of fifteen thousand dollars (\$15,000).

(c) An applicant for a vintner's permit shall file with the commission a surety bond in the penal sum of one thousand dollars (\$1,000).

~~(d) An applicant for a wine wholesaler's permit; a wine bottler's permit; a beer wholesaler's permit; or a carrier's alcoholic permit shall file with the commission a surety bond in the penal sum of five hundred dollars (\$500):~~

SECTION 3. IC 7.1-3-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. ~~Payment in Cash:~~ Payment by a valid postal money order of the United States or by ~~a one~~ **(1) of the following:**

**(1) Certified check;**

**(2) Cashier's check;**

**(3) Check drawn on the bank deposit of a business; or**

**(4) Bank draft; ~~of, or drawn upon, a solvent bank or trust company~~** may be made in lieu of a cash payment whenever a sum is required to be paid in cash under the provisions of this title. **However, payment**



made by one (1) of the methods listed in subdivisions (1) through (4) must be of or drawn upon a solvent bank or trust company.

SECTION 4. IC 7.1-3-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a supplemental retailer's permit which is not specified in subsection (c) to sell the appropriate alcoholic beverages on Sunday from noon, prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday from 11:00 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day if the holder of the permit meets the following criteria:

(1) the holder of the permit is a hotel; or

(2) the holder of the permit meets the requirements of ~~905 IAC 1-15.1-2(a)~~ **905 IAC 1-41-2(a)**.

(d) Notwithstanding subsections (b) and (c), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31 from the time provided in subsection (b) or (c) until 3 a.m. the following day.

(e) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises:

(1) described in section 25(a) of this chapter;

(2) used in connection with the operation of a paved, oval track more than two (2) miles in circumference that is used primarily in the sport of auto racing; or

(3) being used for a professional or an amateur tournament;

beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

**(f) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.**

SECTION 5. IC 7.1-3-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. (a) A city or county



1 listed in this subsection that by itself or in combination with any other  
 2 municipal body acquires by ownership or by lease any stadium,  
 3 exhibition hall, auditorium, theater, convention center, or civic center  
 4 may permit the retail sale of alcoholic beverages upon the premises if  
 5 the governing board of the facility first applies for and secures the  
 6 necessary permits as required by this title. The cities and counties to  
 7 which this subsection applies are as follows:

8 (1) A consolidated city or its county.

9 (2) A city of the second class.

10 (3) A county having a population of more than one hundred thirty  
 11 thousand six hundred (130,600) but less than two hundred  
 12 thousand (200,000).

13 (4) A county having a population of more than three hundred  
 14 thousand (300,000) but less than four hundred thousand  
 15 (400,000).

16 (5) A city having a population of less than ten thousand (10,000)  
 17 that is located in a county having a population of more than four  
 18 hundred thousand (400,000) but less than seven hundred thousand  
 19 (700,000).

20 (6) A county having a population of more than one hundred eight  
 21 thousand nine hundred fifty (108,950) but less than one hundred  
 22 twelve thousand (112,000).

23 (7) A county having a population of more than one hundred eight  
 24 thousand (108,000) but less than one hundred eight thousand nine  
 25 hundred fifty (108,950).

26 (b) A county having a population of more than four hundred  
 27 thousand (400,000) but less than seven hundred thousand (700,000) or  
 28 a township located in such a county that has established a public park  
 29 with a golf course within its jurisdiction under IC 36-10-3 or  
 30 IC 36-10-7 may be issued a permit for the retail sale of alcoholic  
 31 beverages on the premises of any community center within the park,  
 32 including a clubhouse, social center, or pavilion.

33 (c) A township that:

34 (1) is located in a county having a population of more than one  
 35 hundred thousand (100,000) but less than one hundred seven  
 36 thousand (107,000); and

37 (2) acquires ownership of a golf course;

38 may permit the retail sale of alcoholic beverages upon the premises of  
 39 the golf course, if the governing board of the golf course first applies  
 40 for and secures the necessary permits required by this title.

41 (d) A township:

42 (1) having a population of more than thirty thousand (30,000) and



less than seventy-five thousand (75,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that:

(1) has a population of:

(A) more than fifty-eight thousand (58,000) but less than sixty thousand (60,000); or

**(B) more than forty thousand (40,000) but less than forty-three thousand (43,000); and**

(2) owns a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-three thousand (33,000) but less than thirty-three thousand eight hundred fifty (33,850).

(4) A city having a population of more than twenty-seven thousand (27,000) but less than thirty thousand (30,000).

(5) A city having a population of more than twenty-one thousand eight hundred thirty (21,830) but less than twenty-three thousand

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(23,000).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or

(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 6. IC 7.1-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The commission shall not issue a beer retailer's permit, except as otherwise authorized in this title and subject to the other restrictions contained in this title, to the following persons:

(1) An alien.

(2) A person who:

(A) is not of good moral character and of good repute in the community in which the person resides; or

(B) has been convicted within ten (10) years before the date of application of:

(i) a federal crime having a sentence of at least one (1) year;

(ii) an Indiana Class A, Class B, or Class C felony; or

(iii) a crime in a state other than Indiana having a penalty equal to the penalty for an Indiana Class A, Class B, or Class C felony.

(3) A person who does not own the premises to which the permit will be applicable, or who does not have a bona fide lease on the premises for the full period for which the permit is to be issued.

(4) A law enforcement officer or an officer who is not an elected officer of a municipal corporation, or governmental subdivision, or of this state, charged with any duty or function in the enforcement of this title.

(5) An officer or employee of a person engaged in the alcoholic beverage traffic, which person is a nonresident of this state, or is engaged in carrying on any phase of the manufacture of, traffic in, or transportation of alcoholic beverages without a permit under this title when a permit is required by this title.

(6) If the permit applicant does not hold a brewer's permit, a person who leases from a person, or an officer or agent of that person, who holds a brewer's permit or a beer wholesaler's permit.

(7) If the permit applicant does not hold a brewer's permit, a

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person who is indebted to a person who holds a brewer's permit or a beer wholesaler's permit, or an officer or agent of that person, for a debt secured by a lien, mortgage, or otherwise, upon the premises for which the beer retailer's permit is to be applicable, or upon any of the property or fixtures on the premises, or used, or to be used in connection with the premises.

(8) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required for the issuance of a beer retailer's permit to the person.

(9) A minor.

(10) A person non compos mentis.

(11) A person who has held a permit under this title and who has had that permit revoked within one (1) year prior to the date of application for a beer retailer's permit.

(12) A person who has made an application for a permit of any type which has been denied less than one (1) year prior to the person's application for a beer retailer's permit unless the first application was denied by reason of a procedural or technical defect.

(13) A person who is not the proprietor of a restaurant located and being operated on the premises described in the application for the beer retailer's permit, or of a hotel, or of a club, owning, or leasing the premises as a part of it. The disqualification contained in this subdivision shall not apply to the qualifications for or affect the privileges to be accorded under a beer dealer's permit or a dining car beer permit.

(b) Subsection (a)(9) does not prevent a minor from being a stockholder in a corporation.

SECTION 7. IC 7.1-3-20-8.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8.6. (a) The holder of a club permit may do the following:

(1) Designate one (1) day in each month as "guest day".

(2) Keep a record of all designated guest days.

(3) Invite guests who are not members of the club to attend the club on a guest day.

(4) Sell or give alcoholic beverages to guests for consumption on the permit premises on a guest day.

**(5) Keep a guest book listing members and their nonmember guests, except on a designated guest day.**

(b) This subsection applies to a club that furnishes alcoholic beverages on not more than two (2) days in each week.



1 Notwithstanding subsection (a)(1), the holder of a club permit to which  
2 this subsection applies may designate twenty-four (24) guest days in  
3 each calendar year rather than one (1) guest day in each month.

4 SECTION 8. IC 7.1-5-10-1 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) **Except as**  
6 **provided in subsection (d)**, it is unlawful to sell alcoholic beverages  
7 at the following times:

8 (1) At a time other than that made lawful by the provisions of  
9 IC 7.1-3-1-14.

10 (2) On Christmas Day and until 7:00 o'clock in the morning,  
11 prevailing local time, the following day.

12 (3) On primary election day, and general election day, from 3:00  
13 o'clock in the morning, prevailing local time, until the voting polls  
14 are closed in the evening on these days.

15 (4) During a special election under IC 3-10-8-9 (within the  
16 precincts where the special election is being conducted), from  
17 3:00 o'clock in the morning until the voting polls are closed in the  
18 evening on these days.

19 (b) During the time when the sale of alcoholic beverages is  
20 unlawful, no alcoholic beverages shall be sold, dispensed, given away,  
21 or otherwise disposed of on the licensed premises and the licensed  
22 premises shall remain closed to the extent that the nature of the  
23 business carried on on the premises, as at a hotel or restaurant, permits.

24 (c) It is unlawful to sell alcoholic beverages on New Years Day for  
25 off-premises consumption.

26 **(d) It is lawful for the holder of a valid beer, wine, or liquor**  
27 **wholesaler's permit to sell to the holder of a valid retailer's or**  
28 **dealer's permit at any time.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1100, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 18, strike "905".

Page 3, line 19, strike "IAC 1-15.1-2(a)." and insert **"905 IAC 1-41-2(a)."**

Page 3, between lines 38 and 39, begin a new paragraph and insert:  
**"SECTION 5. IC 7.1-3-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:** Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

- (1) A consolidated city or its county.
- (2) A city of the second class.
- (3) A county having a population of more than one hundred thirty thousand six hundred (130,600) but less than two hundred thousand (200,000).
- (4) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).
- (5) A city having a population of less than ten thousand (10,000) that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (6) A county having a population of more than one hundred eight thousand nine hundred fifty (108,950) but less than one hundred twelve thousand (112,000).
- (7) A county having a population of more than one hundred eight thousand (108,000) but less than one hundred eight thousand nine hundred fifty (108,950).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park,

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including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred thousand (100,000) but less than one hundred seven thousand (107,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty thousand (30,000) and less than seventy-five thousand (75,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that:

(1) has a population of:

(A) more than fifty-eight thousand (58,000) but less than sixty thousand (60,000); **or**

**(B) more than forty thousand (40,000) but less than forty-three thousand (43,000); and**

(2) owns a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than one hundred ten

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thousand (110,000) but less than one hundred twenty thousand (120,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-three thousand (33,000) but less than thirty-three thousand eight hundred fifty (33,850).

(4) A city having a population of more than twenty-seven thousand (27,000) but less than thirty thousand (30,000).

(5) A city having a population of more than twenty-one thousand eight hundred thirty (21,830) but less than twenty-three thousand (23,000).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or

(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 6. IC 7.1-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The commission shall not issue a beer retailer's permit, except as otherwise authorized in this title and subject to the other restrictions contained in this title, to the following persons:

(1) An alien.

(2) A person who:

**(A) is not of good moral character and of good repute in the community in which the person resides; or**

**(B) has been convicted within ten (10) years before the date of application of:**

**(i) a federal crime having a sentence of at least one (1) year;**

**(ii) an Indiana Class A, Class B, or Class C felony; or**

**(iii) a crime in a state other than Indiana having a penalty equal to the penalty for an Indiana Class A, Class B, or Class C felony.**

(3) A person who does not own the premises to which the permit will be applicable, or who does not have a bona fide lease on the premises for the full period for which the permit is to be issued.

(4) A law enforcement officer or an officer who is not an elected officer of a municipal corporation, or governmental subdivision,



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or of this state, charged with any duty or function in the enforcement of this title.

(5) An officer or employee of a person engaged in the alcoholic beverage traffic, which person is a nonresident of this state, or is engaged in carrying on any phase of the manufacture of, traffic in, or transportation of alcoholic beverages without a permit under this title when a permit is required by this title.

(6) If the permit applicant does not hold a brewer's permit, a person who leases from a person, or an officer or agent of that person, who holds a brewer's permit or a beer wholesaler's permit.

(7) If the permit applicant does not hold a brewer's permit, a person who is indebted to a person who holds a brewer's permit or a beer wholesaler's permit, or an officer or agent of that person, for a debt secured by a lien, mortgage, or otherwise, upon the premises for which the beer retailer's permit is to be applicable, or upon any of the property or fixtures on the premises, or used, or to be used in connection with the premises.

(8) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required for the issuance of a beer retailer's permit to the person.

(9) A minor.

(10) A person non compos mentis.

(11) A person who has held a permit under this title and who has had that permit revoked within one (1) year prior to the date of application for a beer retailer's permit.

(12) A person who has made an application for a permit of any type which has been denied less than one (1) year prior to the person's application for a beer retailer's permit unless the first application was denied by reason of a procedural or technical defect.

(13) A person who is not the proprietor of a restaurant located and being operated on the premises described in the application for the beer retailer's permit, or of a hotel, or of a club, owning, or leasing the premises as a part of it. The disqualification contained in this subdivision shall not apply to the qualifications for or affect the privileges to be accorded under a beer dealer's permit or a dining car beer permit.

(b) Subsection (a)(9) does not prevent a minor from being a stockholder in a corporation.

SECTION 7. IC 7.1-3-20-8.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8.6. (a) The holder of

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a club permit may do the following:

- (1) Designate one (1) day in each month as "guest day".
- (2) Keep a record of all designated guest days.
- (3) Invite guests who are not members of the club to attend the club on a guest day.
- (4) Sell or give alcoholic beverages to guests for consumption on the permit premises on a guest day.
- (5) Keep a guest book listing members and their nonmember guests, except on a designated guest day.**

(b) This subsection applies to a club that furnishes alcoholic beverages on not more than two (2) days in each week. Notwithstanding subsection (a)(1), the holder of a club permit to which this subsection applies may designate twenty-four (24) guest days in each calendar year rather than one (1) guest day in each month."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1100 as introduced.)

KUZMAN, Chair

Committee Vote: yeas 10, nays 0.

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